

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 18821
[Redacted],)	
)	DECISION
Petitioner.)	
)	

This case arises from a timely protest of a State Tax Commission staff (staff) decision adjusting property tax reduction benefits for 2004. This matter was submitted for a decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision based on the contents of that file.

[Redacted] (petitioner) submitted an application for a 2004 property tax reduction benefit on or about April 7, 2004. The application was approved, and the petitioner received a property tax reduction benefit based on the 2003 income she reported in the application.

Idaho Code §§ 63-707 and 708 provide for audit of all claims and recovery of benefits that have been paid in error. The staff reviewed the petitioner's application and compared the income claimed therein with federal income records. The petitioner's federal income records showed the petitioner received more income than was reported in her application.

The staff sent the petitioner a Notice of Deficiency Determination advising her of the mistake in the reported income that resulted in a benefit paid to her that was larger than she was qualified to receive. She was asked to repay the over-paid portion of the 2004 benefit.

The petitioner telephoned the staff, and the staff sent her a copy of the federal information. The petitioner telephoned the staff a second time to say she did not understand the paperwork that was sent to her. Subsequently, the petitioner sent a letter protesting the determination, and her file was transferred to the Legal/Tax Policy Division for administrative review. The Tax Appeals

Specialist was unsuccessful with attempts to reach the petitioner by telephone. The petitioner did not respond to a letter dated June 17, 2005, that advised her of her appeal rights.

All property within the jurisdiction of this state is subject to property tax. A claimant who qualifies for property tax reduction is given a benefit for a portion of the property tax on the dwelling he/she owns and occupies. That benefit is in the form of a payment (either total or partial) of the applicant's property tax. The payment is funded by state sales tax.

The amount of property tax reduction depends on income--the greater the income, the smaller the benefit. Income is defined differently for the property tax reduction benefit program than it is described in the income tax code. Idaho Code § 63-701(5) describes income for the purpose of the property tax reduction benefit as:

- (5) "Income" means the sum of federal adjusted gross income as defined in the Internal Revenue Code, as defined in section 63-3004, Idaho Code, and to the extent not already included in federal adjusted gross income:
 - (a) Alimony;
 - (b) Support money;
 - (c) Nontaxable strike benefits;
 - (d) The nontaxable amount of any individual retirement account, pension or annuity, (including railroad retirement benefits, all payments received under the federal social security act except the social security death benefit as specified in this subsection, state unemployment insurance laws, and veterans disability pensions and compensation, excluding rollovers as provided in section 402 or 403 of the Internal Revenue Code);
 - (e) Nontaxable interest received from the federal government or any of its instrumentalities or a state government or any of its instrumentalities;
 - (f) Worker's compensation; and
 - (g) The gross amount of loss of earnings insurance.

The calculation of income for property tax reduction benefit purposes starts with federal adjusted gross income and, thereafter, makes certain additions and deductions. In the petitioner's application, she listed her Social Security Disability less \$300 of medical expenses as her sole

income for 2003.

The staff received a report [Redacted] showing the petitioner received income in addition to her Social Security Disability in 2003. The Tax Commission has examined that [Redacted] report and found [Redacted]. reported a *taxable* distribution to the petitioner in 2003 in the amount of \$6,154. As taxable income, the distribution is part of the petitioner's federal adjusted gross income and, by definition, is to be included in the petitioner's 2003 income for 2004 property tax reduction purposes.

In the petitioner's protest letter, the petitioner indicates she does not understand and could not figure out the copy of the [Redacted] information the staff had sent to her. She complained the [Redacted] information, "...just looks like a print out doesn't have any official heading or source of documentation." She said she was writing to [Redacted] for an explanation. She did not claim she did not receive the money. She said she "can't send money every time a state or federal agency sends a letter and finds out it was in error after I provide my copy of pymt. paid."

After review of the petitioner's federal income records and Idaho Code § 63-701(5), the Tax Commission finds the benefit amount the petitioner received for payment of her 2004 property tax was incorrect. Repayment of the over-paid portion of the benefit is appropriate.

The State Tax Commission is aware there is some potential this decision could cause a hardship to the property tax reduction applicant in certain circumstances. The proper jurisdiction to handle such hardship situations falls with the county commissioners pursuant to Idaho Code § 63-711.

WHEREFORE, the Notice of Deficiency Determination dated April 11, 2005, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pays the following property tax benefit reimbursement and interest for 2004.

BENEFIT	INTEREST	TOTAL
\$540.00	\$7.28	\$547.28

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioner's right to appeal this decision is enclosed with this decision.

DATED this _____ day of _____, 2005.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this _____ day of _____, 2005, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]
[REDACTED]

[REDACTED]
